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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES - GENERAL**

Case No. SACV 12-2114 JVS (RNBx) Date December 7, 2012

Title Vask Real Estate Group, LLC v. Newman

Present: The Honorable James V. Selna

Karla J. Tunis

Not Present

Deputy Clerk

Court Reporter

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

**Proceedings: (In Chambers)** Order Remanding Action to the Superior Court of the State of California for the County of Orange

Defendant Gail Newman ("Newman") has removed this action from the Superior Court of the State of California for the County of Orange. The stated basis for removal is federal question jurisdiction under 28 U.S.C. § 1331. (Notice of Removal, ¶ 10.)

However, the Court must determine jurisdiction on the basis of the case removed. The underlying action is an unlawful detainer action. No federal claims are asserted (28 U.S.C. § 1331). Federal defenses or federal counterclaims provide no basis to remove an action which does not otherwise establish federal jurisdiction. See Franchise Tax Board of State of Cal. v. Construction Laborers Vacation Trust, 643 U.S. 1, 10 (1983); Metro Ford Truck Sales, Inc. v. Ford Motor Co., 145 F.3d 320, 326-27 (5th Cir. 1998).

It is not apparent that the parties are diverse for purposes of diversity jurisdiction (28 U.S.C. § 1332(a)(1)); in any event, the amount of relief sought is less than the jurisdictional minimum of \$75,000 (28 U.S.C. § 1332(a)). The face of the Complaint makes plain that the maximum recovery sought is less than \$10,000.

The case is remanded to the Superior Court of the State of California for the County of Orange for lack of jurisdiction.

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